

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **August 10, 2004**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Authorize the issuance of \$14,106,000 General Obligation Public Improvement Bond Anticipation Notes for reauthorization of the \$15,000,000 revolving line of credit with SunTrust Bank

RECOMMENDATION: Conduct the required public hearings to:

- (a) Authorize the issuance of \$14,106,000 General Obligation Public Improvement Bond Anticipation Notes.
- (b) To retroactively amend the FY 2004 General Fund, Water, and Sewer Operating Budgets to provide appropriations for the principal retirement of \$14,106,000 bond anticipation notes funded by the line of credit

Consider adopting resolutions to:

- (a) Authorize the issuance of amount not to exceed \$14,106,000 General Obligation Bond Anticipation Notes to reauthorize the full \$15,000,000 line of credit
- (b) Appropriate \$14,106,000 principal debt retirement funded by the line of credit.

SUMMARY: In July of 2002, City Council authorized the issuance of \$15,000,000 of General Obligation Public Improvement Bond Anticipation Notes for a tax-exempt, variable rate revolving line of credit.

This revolving line of credit was designed as an interim method to provide financing to meet construction schedules pending the issuance of General Obligation Bonds or Virginia Revolving Loans. During FY 2004, the line of credit was principally used to fund the accelerated construction schedule for the E. C. Glass renovation project.

Following receipt of the proceeds of the FY 2004 bond issue all outstanding principal amounts on the line of credit were retired. Accordingly, it is necessary to record appropriations for the \$14,106,000 principal repayment funded by the line of credit, and re-authorize the line of credit to the original \$15,000,000 limit. The distribution of principal payments is as follows:

\$ 9,599,000	General Fund (School Capital Projects)
\$ 2,605,000	General Fund (City Capital Projects)
\$ 1,128,694	Water Operating Fund (Water Capital Projects)
\$ 773,306	Sewer Operating Fund (Sewer Capital Projects)
\$ 14,106,000	Total

PRIOR ACTION(S): July 6, 2004 Finance Committee

FISCAL IMPACT: Issuance of \$14,106,000 General Obligation Bond Anticipation Notes, and the appropriation of the \$14,106,000 principal repayment funded by FY 2004 bond proceeds.

CONTACT(S): Michael W. Hill – 434-455-4218

ATTACHMENT(S): Resolution attached

REVIEWED BY: BMS

Resolution

BE IT RESOLVED That \$12,204,000 (School Capital \$9,599,000, \$2,605,000 City Capital), \$1,128,694 and \$773,306 is appropriated, respectively to the General Fund, Water Operating, and the Sewer Operating Fund, for repayment of principal associated with temporary line-of-credit financing of capital projects with resources of \$14,106,000 from the FY 2004 bond issue, and that this appropriation be made retroactive to June 30, 2004.

Introduced:

Adopted:

Certified: _____
Clerk of Council

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A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FOURTEEN MILLION ONE HUNDRED SIX THOUSAND DOLLARS (\$14,106,000) PRINCIPAL AMOUNT OF BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, OF WHICH \$9,599,000 SHALL BE ISSUED TO FINANCE THE COSTS OF PUBLIC SCHOOL IMPROVEMENT PROJECTS OF AND FOR THE CITY, \$2,605,000 SHALL BE ISSUED TO FINANCE THE COSTS OF PUBLIC BUILDINGS, STREETS AND BRIDGES AND GENERAL MUNICIPAL IMPROVEMENT PROJECTS OF AND FOR THE CITY, \$1,128,694 SHALL BE ISSUED TO FINANCE THE COSTS OF WATER IMPROVEMENT PROJECTS OF AND FOR THE CITY AND \$773,306 SHALL BE ISSUED TO FINANCE THE COSTS OF SEWER IMPROVEMENT PROJECTS OF AND FOR THE CITY; AND AUTHORIZING AND PROVIDING WITH RESPECT TO THE ISSUANCE AND SALE OF A LIKE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE AND SALE OF SUCH BONDS

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA:

SECTION 1. The Council (the "Council") of the City of Lynchburg, Virginia (the "City"), finds and determines as follows:

(a) On July 9, 2002, the Council adopted Resolution No. R-02-134, entitled "A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FIFTEEN MILLION DOLLARS (\$15,000,000) PRINCIPAL AMOUNT OF BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF PUBLIC IMPROVEMENT PROJECTS OF AND FOR SUCH CITY AND AUTHORIZING AND PROVIDING WITH RESPECT TO THE ISSUANCE AND SALE OF A LIKE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE AND SALE OF SUCH BONDS".

(b) On August 30, 2002, the City, pursuant to the authorization contained in Resolution No. R-02-134, entered into a Financing Agreement, dated as of August 30, 2002, by and between the City and SunTrust Bank (the "Financing Agreement"), and issued its General Obligation Public Improvement Bond Anticipation Note, Series 2002, dated August 30, 2002, in the principal amount of \$15,000,000 (the "SunTrust Note"), to SunTrust Bank pursuant to the Financing Agreement.

(c) The City has heretofore drawn approximately \$14,106,000 under the Financing Agreement, such borrowings having been evidenced by the SunTrust Note.

(d) The City has heretofore refunded such borrowings by the City under the Financing Agreement, but wishes to reauthorize advances available under the Financing Agreement up to the amount of \$15,000,000.

(e) The Financing Agreement provides that the City shall not request any advance and SunTrust Bank shall not make any advance to the extent that such advance would cause the total of all principal advances outstanding under the SunTrust Note to exceed \$15,000,000 (*provided* that to the extent the aggregate of all such principal advances, regardless of whether then outstanding, exceeds \$15,000,000, no additional principal advances shall be requested or made unless such excess amount, including the requested principal advance, has been authorized by resolution of the City Council adopted subsequent to adoption of Resolution No. R-02-134, which authorizes the issuance of bonds and notes in anticipation thereof in amounts at least equal to such excess and SunTrust Bank, as the Note Agent, has received an opinion of Bond Counsel for the City that such excess has been authorized by the City and will be a valid and binding general obligation of the City, the interest on which is excluded from the gross income of the owners thereof for federal and Virginia income tax purposes).

(f) In the judgment of the Council, it is necessary and expedient to authorize the issuance and sale of not to exceed Fourteen Million One Hundred Six Thousand Dollars (\$14,106,000) of additional Bonds of the City, of which \$9,599,000 shall be issued to finance the costs of public school improvement projects of and for the City, \$2,605,000 shall be issued to finance the costs of public buildings, streets and bridges and general municipal improvement projects of and for the City, \$1,128,694 shall be issued to finance the costs of water improvement projects of and for the City and \$773,306 shall be issued to finance the costs of sewer improvement projects of and for the City, and to authorize the issuance and sale of a like principal amount of General Obligation Public Improvement Bond Anticipation Notes in anticipation of the issuance and sale of such Bonds, such authorization to be in an amount approximately equal to the borrowings under the Financing Agreement to be refunded from the proceeds of bonds to be issued pursuant to Resolution No. R-02-134 and this Resolution, and to be for the purpose of restoring the amount of the advances the City is authorized to request, and SunTrust Bank is authorized to make, under the Financing Agreement and the SunTrust Note to the full amount permitted by the Financing Agreement.

SECTION 2. Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), for the purpose of providing funds to finance the costs of various public improvement projects of and for the City, of which \$9,599,000 shall be issued to finance the costs of public school improvement projects of and for the City, \$2,605,000 shall be issued to finance the costs of public buildings, streets and bridges and general municipal improvement projects of and for the City, \$1,128,694 shall be issued to finance the costs of water improvement projects of and for the City and \$773,306 shall be issued to finance the costs of sewer improvement projects of and for the City, there are authorized to be issued not to exceed Fourteen Million One Hundred Six Thousand Dollars (\$14,106,000) principal amount of bonds of the City (the "Bonds"). There is hereby delegated to the City Manager the authority to determine the principal amount of the Bonds authorized to be issued hereunder up to but not in excess of the principal amount authorized in the immediately preceding sentence, the principal amount of the Bonds to be approximately equal to the principal amount of borrowings under the Financing Agreement which shall be refunded from the proceeds of the Bonds and any other bonds of the City authorized for such purpose. The form, denomination and other details of the Bonds, including the subsection of Article VII, Section

10(a) of the Constitution of Virginia pursuant to which any portion of the Bonds shall be issued if such portion of the Bonds shall not be secured by the full faith and credit of the City, the security pledged to the payment of the such portion of the Bonds and any covenants pertaining to the status of the interest on the Bonds for purposes of federal and Commonwealth of Virginia income taxation, shall be provided for by the subsequent resolution of this Council.

SECTION 3. (a) In anticipation of the issuance and sale of the Bonds authorized for issuance pursuant to Section 1 hereof, there are authorized to be issued and sold not to exceed Fourteen Million One Hundred Six Thousand Dollars (\$14,106,000) principal amount of general obligation public improvement bond anticipation notes of the City for the purposes for which the Bonds in anticipation of which they issued are authorized, to be designated "City of Lynchburg, Virginia, General Obligation Public Improvement Bond Anticipation Notes" (the "Notes"). There is hereby delegated to the City Manager the authority to determine the principal amount of the Notes authorized to be issued hereunder up to but not in excess of the principal amount authorized in the immediately preceding sentence and to certify the same to SunTrust Bank in accordance with the provisions of the Financing Agreement referred to in Section 1 hereof in order to restore the amount of the advances the City is authorized to request, and SunTrust Bank is authorized to make, under the Financing Agreement and the SunTrust Note up to the amount of \$15,000,000. The Notes shall mature and be payable within five (5) years of the date of their initial issuance. The issuance and details of the Notes shall be governed by the applicable provisions of the Public Finance Act of 1991, including the provisions of Section 15.2-2628 of the Code of Virginia, 1950. The Bonds in anticipation of which the Notes are issued pursuant to this Section 2(a) may be issued and sold in accordance with the provisions of this Resolution at any time or from time to time; *provided* that in any event such Bonds shall be issued and sold not later than five (5) years from the date of the original issuance of the first Notes issued in anticipation of such Bonds.

(b) The Notes shall be issued in fully registered form in the minimum denomination of \$100,000 or any multiple of \$25,000 in excess of \$100,000, and the Notes of a given series shall be numbered from R-1 upwards in order of issuance. There is hereby delegated to the City Manager of the City the authority, without further action of this Council, to sell the Notes at competitive or negotiated sale at such price plus accrued interest and on such other terms and conditions as shall be determined by the City Manager. There is hereby further delegated to the City Manager the authority to determine, in accordance with and subject to the provisions of this Resolution and without further action of this Council: the date or dates of the Notes; the rate of interest per annum to be borne by the Notes or the method for calculating the rate of interest to be borne by the Notes from time to time; *provided* that in no event shall the Notes bear interest at a rate in excess of 12% per annum; the basis of computing interest on the Notes (*e.g.*, either a 360-day year comprised of twelve 30-day months or a 365- or 366 day year and actual days elapsed); the interest payment dates thereof; the maturity date or dates thereof; the amount of principal maturing on each maturity date; the place or places of payment thereof and the paying agent or paying agents therefor; the place or places of registration, exchange or transfer thereof and the registrar therefor; and whether or not the Notes shall be subject to redemption prior to their stated maturity or maturities and, if the Notes shall be subject to redemption, the premiums, if any, payable upon such redemption; *provided* that no such

premium shall exceed 3% of the principal amount of the Notes, and the respective periods in which such premiums are payable and the method and timing for giving notices of redemption of the Notes.

(c) The City Manager is hereby authorized, without further action of this Council, to execute and deliver a revolving credit facility or revolving loan agreement providing for the issuance of the Notes as evidence of advances made thereunder in a principal amount not to exceed the principal amount of the Notes authorized for issuance pursuant to Section 2(a) hereof and is hereby further authorized to cause to be paid on behalf of the City the fees and expenses payable to the issuer of such revolving credit facility or revolving loan agreement pursuant to the terms thereof.

SECTION 4. (a) The Notes shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor of the City and shall have an impression of the corporate seal of the City or a facsimile thereof embossed or imprinted thereon, attested by the manual or facsimile signature of the Clerk of Council of the City. The certificate of authentication on the Notes shall be executed by the Registrar for the Notes designated by the City Manager.

(b) The execution and authentication of the Notes in the manner above set forth is adopted as a due and sufficient execution and authentication of the Notes.

SECTION 5. (a) Both the principal of and premium, if any, and interest on the Notes shall be payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts.

(b) Interest on the Notes shall be payable by check mailed by the Registrar to the registered owners of such Notes at their respective address as such addresses appear on the books of registry kept pursuant to the provisions of this Section 5. Principal of and premium, if any, on the Notes shall be payable on presentation and surrender thereof at the office of the Registrar.

(c) At all times during which any Note of any series remains outstanding and unpaid, the Registrar for such series shall keep or cause to be kept at its office books of registry for the registration, exchange and transfer of Notes of such series. Upon presentation at its office for such purpose the Registrar, under such reasonable regulations as it may prescribe, shall register, exchange, transfer, or cause to be registered, exchanged or transferred, on the books of registry the Notes as hereinbefore set forth.

(d) The books of registry shall at all times be open for inspection by the City or any duly authorized officer thereof.

(e) Any Note may be exchanged at the office of the Registrar for such series of Notes for a like aggregate principal amount of such Notes in other authorized principal sums of the same series, interest rate and maturity.

(f) Any Note of any series may, in accordance with its terms, be transferred upon the books of registry by the person in whose name it is registered, in person or by his duly authorized agent, upon surrender of such Notes to the Registrar for such series for cancellation, accompanied by a written instrument of transfer duly executed by the registered owner in person or his duly authorized agent, in form satisfactory to the Registrar.

(g) All transfers or exchanges pursuant to this Section 5 shall be made without expense to the registered owner of such Notes, except as otherwise herein provided, and except that the Registrar for such series of Notes shall require the payment by the registered owner of the Note requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange. All Notes surrendered pursuant to this Section 5 shall be cancelled.

SECTION 6. The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and premium, if any, and interest on the Notes as the same become due. In each year while the Notes, or any of them, are outstanding and unpaid, the Council of the City shall be authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and premium, if any, and interest on the Notes to the extent such principal, premium, if any, and interest shall not be paid from the proceeds of the Bonds of the City in anticipation of which the Notes are issued or from other funds of the City lawfully available and appropriated for such purpose.

SECTION 7. CUSIP identification numbers may be printed on the Notes, but no such number shall constitute a part of the contract evidenced by the particular Note upon which it is printed and no liability shall attach to the City or any officer or agent thereof (including any paying agent for the Notes) by reason of such numbers or any use made thereof (including any use thereof made by the City, any such officer or any such agent) or by reason of any inaccuracy, error or omission with respect thereto or in such use. All expenses in relation to the printing of such numbers on the Notes shall be paid by the City including the CUSIP Service Bureau charge for the assignment of such numbers.

SECTION 8. The City covenants and agrees that it shall comply with the provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 and the applicable Treasury Regulations promulgated thereunder so long as any Note is outstanding.

SECTION 9. The Notes shall be in the form approved by the City Manager.

SECTION 10. The City Attorney of the City is directed to file a copy of this Resolution, certified by the Clerk of Council of the City to be a true and correct copy hereof, with the Circuit Court of the City in accordance with Section 15.2-2607 the Code of Virginia, 1950.

SECTION 11. All ordinances, resolutions and proceedings in conflict herewith are, to the extent of such conflict, repealed.

SECTION 12. This Resolution shall take effect upon its adoption.

Adopted:

Certified: _____
Clerk of Council

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